

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare – East Godavari District – Revision Petition filed Under Section 6 of A.P.S.A.L.T.R.1959, by Sri G. Rupulayya S/o Late Gangaraju R/o Yeleswaram (V&M), East Godavari against the orders of the Agent to Government, Rampachodavaram in CMA No.25/95, dated:12-4-1998– Dismissed – Orders – Issued.

SOCIAL WELFARE (L T R-2) DEPARTMENT

G.O.Ms.No. 50

Dated:23-05-2009.

Read the following:

1. From Sri. M.S.R Subrahmanyam, Counsel for the petitioner
Revision Petition dt:5-08-1998.
2. Government Memo No.26070/LTR-2/1998 dt:21-1-1999.
3. From the Collector, East Godavari F2/5446/2004, dt:26-8-2004.
4. Government Lr.No.26070/LTR-2/1998 dt:18-6-2005,19-8-2005,17-7-2006,
24-3-2007 and 23-12-2008.
5. Government Memo No.26070/LTR-2/1998, dt:3-4-2007, 6-6-2007 and
6-11-2007.

ORDER:

In the reference 1st read above G. Rupulayya S/o Late Gangaraju R/o Yeleswaram (V&M), East Godavari has filed a Revision Petition along with stay petition before the Government against the orders of the Agent to Government Rampachodavaram, East Godavari District in CMA No.25/95, dated:12-4-1998, in respect of lands in R.S No.26/4 measuring Acres 2.62 cents in Papampeta (V) Addateegala (M) of East Godavari District. The main grounds of the appellant in the Revision Petition among others are:

- i. The Agent to Government should have seen that the 3rd party appellant i.e. petitioner herein to whose share the partition schedule lands fell, has been in his possession and enjoyment and that Gudelli Satyanarayana who effected alleged transfer was not the owner of the scheduled lands.
 - ii. The Agent to Government should have seen that the Revenue Record in respect of the dispute land stands in the name of the petitioner herein, his brothers and father that merely because Gudelli Satyanarayana effected transfer in respect of schedule land in favour of Dadisetty Somaraju, the petitioner herein cannot be divested of his right tile and interest in respect of schedule property.
 - iii. The Agent to Government erred in not causing any enquiry into the fact as to who is the owner of the schedule lands especially when the petitioner traces his title to the schedule land and the Special Deputy Collector (TW), Rampachodavaram contends that Gudelli Satyanarayana is the owner and effected transfer of the schedule lands.
 - iv. The Agent should have seen that it is not open to him to hold that Gudelli Satyanarayana effected transfer of schedule lands in violation of Land Transfer Regulation without giving any finding as to whether Gudelli Satyanarayana has any right, title or interest in the schedule property.
2. The brief history of the case are that:-----
- a. The Special Deputy Tahasildar (TW), Addateegala (M) filed complaint before the Special Deputy Collector (TW), Rampachodavaram on behalf of the Government for restoration of land admeasuring Acres 2.62 in R.S. NO.26/4 situated at Papampeta (V), Addateegala (M) in East Godavari against the respondents Sri Dadisetty Somaraju and Narayana Rao Under Section 3 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959

(ie.Regulaytion 1 of 1959). The Special Deputy Collector (TW), Rampachodavaram conducted enquiry and held in his order dt:6-4-1995 that the respondent Dadisetti Somaraju first deposed that he is cultivating the land measuring Acres 4.00 belongs to Gudelli Gangaraju on lease from 10 years and again deposed on 28-01-1995 that he is cultivating Acres 2.62 in Sy.No.26/4 belongs to Gudelli Satyanarayana on lease and that the second respondent i.e. Dadisetti Narayana Rao previously cultivated and left the land about 10 years back. When Gudelli Satyanarayana was enquired, he deposed that the lands were purchased by his grand-father Gudelli Gangaraju from Smt Marisetti Suramma who also belongs to Gavalla caste and purchased during 1922 under document No.703/22, dt:14-7-1922 and by his grandfather vide Document No.500/1928, dt:5-6-1928 which came into the hands of his father and himself after the death of his grandfather Gangaraju. The said land was given on lease to Dadisetti Somaraju during 1976. The vendors of the land belong to Madiga caste which was included in the list of Hill Tribes and permission as required under Section 4 (1) of Act 1 of 1917 was not obtained from the Agent to Government in the 1st transaction and hence the subsequent transaction also became null and void. Hence the Special Dy.Collector (TW) in LTRP No.11/94, dated 6-4-1995 the case allowed in favour of Government.

- b. Aggrieved by the orders of Special Deputy Collector (TW), Rampachodavaram, Sri Gudelli Rupalayya S/o Gangaraju as 3rd party Appellant had filed appeal before the Addl.Agent to Government and Project Officer ITDA, Rampachodavaram urging that the scheduled land devolved on him from his late father. The appellant Gudelli Rupalayya and his father partitioned the whole property and the extent of Acres 2.62 fell to his share. The second respondent i.e. Gudelli Satyanarayana S/o Late Narayana Murthy attended the court and misrepresented due to enmity that he is in possession and also given on lease to 1st respondent i.e. Dadisetti Somaraju. As the respondents i.e. Dadisetti Somaraju and Gudelli Satyanarayana misrepresented the facts and the lower court had not served him any notice, prayed to rectify the defect committed by lower court.

The Agent to Government, East Godavari District, Kakinada in CMA No.25/95, dt:12-4-1998 upheld orders of Special Deputy Collector (TW) in LTRP No.11/94, dt:6-4-1995. Sri Gudelli Rupalayya has filed present Revision Petition before the Government.

3. In the reference 2nd read above the Agent to Government, East Godavari was requested to furnish para-wise remarks and case records and the same were furnished in the reference 3rd read above. After examination the case records, notices were issued to the concerned to attend the hearing of the Revision Petition on 20-7-2005, and was finally heard on 31-12-2008 vide reference 4th read above. Both the Petitioner and his counsel were absent and the third party respondent was present. The case is decided based on the records.

4. Government after careful examination of the material evidence on record observed that:-

The schedule land was purchased by non-tribal viz., Marisetti Tammaiah through sale deed No.703/1922, dt:14-7-1922 from Madigas who were listed as STs in the Hill Tribes. In the year 1928, Marisetti Tammaiah (NT) sold the land to Gudelli Gangaraju (NT) through regd. Sale deed No.500/28, dt:5-6-1928 which was subsequently succeeded by Gudelli Naryana Murthy, Gudelli Rupalayya, Gudelli Satyanarayana. Initially, the Land Transfer Regulation proceedings were initiated on the complaint of Special Deputy Tahasildar (TW) wherein it was found that the 1st transaction took place in the year 1922 between Madigas (Tribals) and Marisetti Tammaiah (non-tribals) was without prior permission of the Agent to Government or prescribed officer as required under Section 4 (1) of Act 1 of 1917. In the appeal; before the Agent to Government and Revision Petition before the Government, the 3rd party appellant / petitioner herein has been arguing that Gudelli Satyanarayana who affected alleged transfer was not the owner of the schedule lands and that the Agent to Government erred in not causing any enquiry into fact as to who is the owner, but did not answer to the validity of transaction took place in the year 1922

from tribal to non-tribal. It is clear that the transaction from the tribal Madigas in the year 1922 to non-tribal Marisetti Tammaiah was hit by section 4 (1) of Act 1 of 1917 and thus the subsequent transactions are also illegal and void in law.

5. Government after careful examination of the case records, find no reason to interfere with the Orders of the Agent to Government, Rampachodavaram, East Godavari District in CMA No.25/95, dated:12-4-1998 and accordingly dismiss the Revision Petition.

6. The Collector, East Godavari / Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
Prl. Secretary to Government.

To

The Collector, East Godavari District.

(with RPAD of the following records)

1. CMA No.25/95 NF 48 pages and CF 06, total 54 only.

The Agent to Government, Kakinada, East Godavari.

The Special Deputy Collector (TW), Rampachodavaram, East Godavari.

The Special Deputy Tahasildar (TW), Addateegala, East Godavari.

Sri Gudelli Rupulayya S/o Late Gangaraju

R/o Yeleswaram (V&M), East Godavari.

Sri Dadisetti Somaraju S/o Late Musalayya,

R/o Yellavaram (V), Addateegala (M), East Godavari District.

Sri Gudelli Satyanarayana S/o Late Narayana Murthy,

R/o Yeleswaram (V) Addateegala (M), East Godavari.

Sri M.S.R. Subrahmanyam, Advocate,

Plot No.6-2-45/3, A.C. Guards, Hyderabad-04.

FORWARDED:BY ORDER

SECTION OFFICER.